

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Gene Warzecha on 9/15/2008.

The application has been amended as follows:

#### **In the Claims:**

Cancel claims 18 and 19.

#### **Amend claim 14:**

14. (currently amended) A sterile transfer container for containing a battery having electrical terminals for powering a surgical instrument comprising:

- a hollow body having a closed distal end and an open proximal end;
- terminal means extending through said body for electrically communicating with the battery terminals of a battery retained within said body;
- a cover for releasably enclosing said open proximal end;
- latch means for selectively latching said cover to said body and said body to said instrument;

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and lock means for securing said latch means to selectively prevent its release[.];

instrument attachment means adjacent said terminal means for attaching said body to an instrument to be powered by a battery within said body; and

receiving means for mateable engagement with said instrument attaching means wherein detent means and said latch means are adapted to be blocked, when said cover is locked and when said surgical instrument is attached to said instrument attachment means, to prevent disengagement of said latch means from said detent means until said latch means is released.

Amend claim 20:

20. (currently amended) In combination a sterile transfer container for retaining a battery therein and a surgical instrument for being powered by the battery, said sterile transfer container comprising:

a hollow body having a closed distal end and an open proximal end;

terminal means extending through said body for electrically communicating with the battery terminals of a battery retained within said body;

a cover for releasably enclosing said open proximal end;

latch means for selectively latching said cover to said body and said body to said instrument;

and lock means for securing said latch means to selectively prevent its release;

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instrument attaching means adjacent said terminal means for attaching said body to an instrument to be powered by a battery within said body; and receiving means for mateable engagement with said instrument attaching means wherein detent means and said latch means are adapted to be blocked, when said cover is locked and when said surgical instrument is attached to said instrument attachment means, to prevent disengagement of said latch means from said detent means until said latch means is released.

~~and said surgical instrument comprising:~~  
~~receiving means for mateable engagement with said instrument attaching means~~  
~~—blocking means for preventing release of said lock means when said sterile transfer container is attached to said instrument.~~

Amend claim 21:

21. (currently amended) A method for securing a sterile transfer container, holding a battery, to a surgical instrument comprising the steps of:

providing a sterile transfer container comprising: a body having a closed distal end and an open proximal end;

terminal means extending through said body for electrically communicating with the battery terminals of a battery retained within said body;

a cover for releasably enclosing said open proximal end; latch means for selectively latching said cover to said body; and lock means for securing said latch means to selectively prevent its release;

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providing on said instrument a receiving means for mateably engaging said attaching means;

~~attaching said receiving means to said attaching means;~~

blocking said latch means to prevent said latch means from becoming released while said container is attached to said instrument

providing instrument attaching means adjacent said terminal means for attaching said body to an instrument to be powered by a battery within said body;  
and

attaching receiving means for mateable engagement with said instrument attaching means wherein detent means and said latch means are adapted to be blocked, when said cover is locked and when said surgical instrument is attached to said instrument attachment means, to prevent disengagement of said latch means from said detent means until said latch means is released.

Amend claim 24:

24. (currently amended) In combination a sterile transfer container and a surgical instrument, said sterile transfer container adapted to receive a battery therein and adapted to be attached to said surgical instrument for powering said surgical instrument, said sterile transfer container and said surgical instrument each comprising respective, mateable engagement means for releasably attaching said sterile transfer container to said surgical instrument, said sterile transfer container comprising:

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a hollow body for containing a battery, said body having an opening through which a battery may be inserted:

a cover for hermetically enclosing said battery within said body by selectively covering said opening;

latch means for selectively latching said cover to said body and said body to said instrument;

lock means for securing said latch means to prevent its release when said body is attached to said surgical instrument, and said surgical instrument comprising:

blocking means for preventing release of said lock means when said sterile transfer container is attached to said instrument

instrument attaching means adjacent said terminal means for attaching said body to an instrument to be powered by a battery within said body; and

receiving means for mateable engagement with said instrument attaching means wherein detent means and said latch means are adapted to be blocked, when said cover is locked and when said surgical instrument is attached to said instrument attachment means, to prevent disengagement of said latch means from said detent means until said latch means is released.

Claim 25: replace “detent means” with “said detent means”.

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Claims 1-17 and 20-26 are allowed. The restriction requirement, as set forth in the Office action mailed on 7/14/2008, has been reconsidered. The restriction requirement is withdrawn and claims 1-13, 17, 20-26, directed to another group, are no longer withdrawn from consideration. Thus, the foregoing claims have been re-joined.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

### ***Reasons for allowance***

Claims 1-17, 20-26 are allowed.

The following is an examiner's statement of reasons for allowance:

The closest prior art is Nandella (US 4160857).

Prior art does not disclose nor suggest:

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“locking means for locking said cover to said body, said locking means comprising:

an elongated member extending exteriorly of said body between said distal and proximal ends of said body, in general parallel alignment with said axis, said elongated member having a proximal end and a distal end;

a latching means affixed to said distal end of said elongated member, said latching means for selectively engaging said detent means on said distal end of said body;

a lateral support member for selective locking engagement with said cover, said lateral support member secured transversely to said proximal end of said elongated member; and releasable closing bias means for urging said latching means against said detent means and said lateral support member against said cover when said cover is locked, said closing bias means interposed between said elongated member and said cover”

as recited in claims 1, 10, and 12.

Prior art does not disclose nor suggest:

‘receiving means for mateable engagement with said instrument attaching means wherein said detent means and said latching means are adapted to be blocked, when said cover is locked and when said instrument is attached to said instrument attaching means, to prevent disengagement of said latching means from said detent means until said latch means is released”

as recited in claims 14, 20, 21, and 24.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CYNTHIA LEE whose telephone number is (571)272-8699. The examiner can normally be reached on Monday-Friday 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Cynthia Lee/  
Examiner, Art Unit 1795

/PATRICK RYAN/  
Supervisory Patent Examiner, Art  
Unit 1795